

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-10-007

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF
SOUTHERN TITLE INSURANCE CORPORATION**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Southern Title Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated April 30, 2009 (the "Report"), relevant examiners' work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a title insurance company.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on April 30, 2009, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2006 to December 31, 2007.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners' handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

CONCLUSIONS OF LAW AND ORDER


8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following violation: Failure, in some instances, to provide records requested for market conduct purposes. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that all records required for market conduct purposes are maintained and can be provided within the required time period.
10. Issue A2 concerns the following violation: Failure to provide adequate agency oversight. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that a comprehensive and effective agent oversight program is developed and operational.
11. Issue A3 concerns the following violation: Failure to provide adequate oversight of agent affiliated business arrangements in violation of Colorado insurance law and the Real Estate Settlement Procedures Act (RESPA). The Respondent shall provide evidence to the Division that it has revised its agency structure and procedures to ensure that it is not actively or passively in violation of the cited laws.
12. Issue C1 concerns the following violation: Failure, in some instances, to charge accurate rates. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that all title policies are issued with premium determinations that are consistent with filed rates. In addition, the Company should be required to conduct a self-audit for the period of January 1, 2006 through the date of this Order, and refund all premium over charges identified as a result of the audit.

13. Issue H1 concerns the following violation: Failure to ensure that agents comply with the notice requirements of Colorado insurance law concerning severed mineral estates. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that all title commitments for owner policies in Colorado provide such references to recorded severance documents and the § 10-11-123 C.R.S. notice. Furthermore, the Company should be estopped from asserting any defense based on § 10-11-123 C.R.S. in any claim in which the underlying title file purports to take exception to any mineral interest unless based on reference to a recorded instrument, likewise as to any file in which the § 10-11-123 C.R.S. notice was not provided.
14. Issue H2 concerns the following violation: Failure to ensure that agents conduct a reasonable examination of title and to fully disclose impairments of record. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that all title commitments will be based on a comprehensive search and examination of title and such commitments will fully disclose all impairments of record. Furthermore, the Company should be estopped from asserting any defense based on any exception to coverage in Schedule B-2 of any Colorado policy which does not fully disclose a reference to a specific recorded instrument.
15. Issue K2 concerns the following violation: Failure by the Company to ensure that all funds disbursed by its authorized agents at closing were accurately reported on the HUD-1 form. The Respondent shall provide evidence to the division that it has revised its procedures to ensure that all files contain an accurate HUD-1 form reflecting the actual charges and adjustments paid for or on behalf of the borrower and the seller.
16. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of two hundred fifty-two thousand and no/100 dollars (\$252,000.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division Bulletin No. B-1.3, originally issued on January 1, 1998, re-issued May 8, 2007. Said penalty shall be assessed a 15% surcharge, or \$30,000.00, pursuant to 24-34-108, C.R.S. for a total balance due of \$282,000.00 which will be due to the Division within 30 days of the signing of this Final Agency Order. This surcharge will be used to fund the development, implementation and maintenance of a consumer outreach and education program.
17. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its

directors stating under oath that they have received a copy of the adopted report and related Order.

18. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the Division's rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with Division's document, 'Guidelines for Self Audits Performed by Companies'. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
19. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
20. Copies of the examination report, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

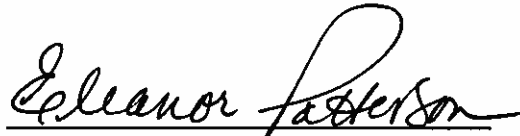
WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated April 30, 2009, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 15th day of July, 2009.


Marcy Morrison
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of July, 2009, I caused to be deposited the **FINAL AGENCY ORDER NO. O-10-007 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF SOUTHERN TITLE INSURANCE CORPORATION**, in the United States Mail via certified mailing with postage affixed and addressed to:

Mr. Eugene R. McCullough, President
Southern Title Insurance Company
1051 East Cary Street
Richmond, VA 23219

A handwritten signature in cursive script, reading "Eleanor Patterson", written over a horizontal line.

Eleanor Patterson
Market Regulation Administrator
Division of Insurance